

REMARKS

In response to the restriction requirement of June 18, 2009, Applicants elect for prosecution the invention of Group I, directed to a patch.

Claims 113-146 are pending. With entry of the this Response, claim 119 is amended to depend from claim 113, thereby bringing claims 119-121, and 124-125 within Group I. Therefore, the claims of Group I (now claims 113, 114, and 119-125) are elected for prosecution, and claims 115-118 and 126-146 are withdrawn.

Unity of Invention

The Examiner has characterized the special technical feature of the invention by paraphrasing the elements of claim 113, which are: “an active layer comprising the volatile substance; a barrier layer having a first side and an opposite side, the first side attached to the active layer; a fractional adhesion layer adjacent to an opposite side of the barrier layer from the active layer, the fractional adhesion layer comprising an adhesion area that is a fraction of the total area of a side of the barrier layer; and a release liner covering the adhesion area adjacent to the opposite side of the barrier layer.” Nonetheless, the Examiner alleges a lack of unity of invention in view of the reference of DiSapio et al. (U.S. Patent 4,874,129). The examiner has not explained why each group lacks unity with each other group by specifically describing the unique special technical feature in each group as required by MPEP § 1893.03(d).

In the event that claim 113 is found to be patentable over DiSapio et al., applicant requests, and reserves the right to request, that the unity of invention requirement be withdrawn, and that the claims of Group II (drawn to a patch including a mask layer) and the claims of Group III (drawn to a patch including an intermittent mask layer) be rejoined and examined for patentability on the merits.

Rejoinder of Process Claims

The Examiner has required election between the product claims of Group I and the process claims of claims 126-146. Claims 126-146 are drawn to methods of making the patch of claim 113, and each of claims 126-146 incorporates by reference all of the limitations of claim 113. In the event that claim 113 is found to be allowable, applicant

reserves the right of rejoinder of process claims 126-146, whereby the requirement for restriction between the claims of Group I and the claims of Group IV will be withdrawn, and the claims of Group IV will be rejoined and examined for patentability on the merits.

CONCLUSION

It is believed that no extension of time is needed for submission of this communication. If any additional extension of time or fees are required for the timely consideration of this application, please charge deposit account number 19-4972. The Examiner is requested to telephone the undersigned if any matters remain outstanding so that they may be resolved expeditiously.

July 20, 2009

Respectfully submitted,

/Leslie Meyer-Leon, #37,381/
Leslie Meyer-Leon, Ph.D., JD
Registration No. 37,381
Attorney for Applicants

BROMBERG & SUNSTEIN, LLP
125 Summer Street
Boston, MA 02110-1618
Tel: (617) 443-9292
Fax: (617) 443-0004

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